

Remarks

It is observed that the Examiner rejected original claims 1, 9-14 and 20-22 as being anticipated by Garneau (US-6,553,573), and claims 2, 3, 5-8 and 18 as being obvious over Garneau.

The applicant respectfully observes that present claim 1 recites two essential features for the invention, i.e. the fact that the support 4 is made of double-stretch material and the fact that a padding is coupled thereto which is also made of double-stretch material.

Accordingly, the result of the coupling of the two elements (support and padding) is a double-stretch assembly, where with assembly it is meant the support plus the padding.

This is just the aim of the applicant's invention in that it was found that conventional paddings or bottoms are made of substantially rigid or scarcely elastic materials, that render useless any small deformation of the fabric that constitutes the shorts (see page 2, lines 1-6 of the applicant's specification).

The above-mentioned drawbacks also affect the seat pad of Garneau.

In fact, Garneau discloses a protective element in a pair of cycling shorts wherein the protective element comprises:

- a thick intermediate layer made from resiliently compressible material;
- a thin top layer made from a non-compressible material;
- a thin bottom layer made from a non-compressible material.

The intermediate layer may consist of open cell foam, preferably polyurethane, while the top and bottom layers are made of synthetic material, preferably polyester.

This means that the pad and the shorts are not made from the same material as stated by the Examiner.

In fact, if it were true that the shorts and the protective element are made of the same material, then the shorts would be made of open cell foam, but this is in contrast with the Examiner's statement according to which the shorts are made of Lycra. In alternative, both the protective element and the shorts should be made of

Lycra (to be made of the same material) and this is also not the case with Garneau.

Thus, the shorts and the protective element are not made of the same material as in the applicant's claimed invention.

In addition, the Examiner stated that the protective element of Garneau is elastic. The applicant cannot agree with such statement since, even if the intermediate layer of the protective element were elastic (feature that will be demonstrated as being not true), then the coupling with two clearly non-elastic layers, i.e. the top and bottom layers made of polyester and polyester felt (see column 1, lines 41-56) would result as being non elastic.

In other words, any coupling of an elastic material with two layers (top and bottom) of non-elastic material would render the assembly non-elastic.

This goes clearly against the teachings of the applicant's claimed invention wherein the assembly (with the meaning indicated above) is definitely elastic and is coupled to an elastic support of the cycling shorts. In this way the resulting coupling is elastic as a whole.

The applicant would be able to provide to the Examiner a pair of cycling shorts made by Garneau strictly according to the teachings of the US patent and from the analysis of the sample it would be clear that the protective element is far from being, and it could not be, given its own structure and materials.

As to the elasticity of the intermediate layer, it is not stated in any passage of the specification that such layer is elastic. The fact that the layer is made of polyurethane does not suggest per se that the layer is elastic since, as the Examiner surely knows, there are a plurality of types of polyurethane having different compositions and only few of them can be said to be elastic.

Thus, the feature of having a layer made of or containing polyurethane does not imply that the layer is elastic, where with the term elastic is meant something that can resume its original shape once the mechanical stress is relieved.

As said in the applicant's response to the previous Office Action, the term flexible

is not present in the Provisional application that should be considered taking into account the applicant's priority date (August 10, 2000) that is earlier than the filing date (June 8, 2001) of Garneau.

In any case, even assuming that the intermediate layer of Garneau can be considered as being elastic, the elasticity of the whole assembly, i.e. of the protective element would be nullified by the presence of the top and bottom layers.

In view of the above, reconsideration of the pending claims is respectfully requested by the applicant.

Please note that all of the pending claims have been herewith reported for the Examiner's convenience.

Should the Examiner believe that the application is still not in an allowable condition because of minor deficiencies, an informal phone conversation or an Examiner's Amendment are kindly requested by the Applicant.

Respectfully submitted,



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Milan: December 23, 2003